

EIGHTEENTH DAY

(Wednesday, February 6, 1957)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President pro tempore.

The roll was called and the following Senators were present:

Aikin	Martin
Ashley	Moffett
Bracewell	Moore
Bradshaw	Owen
Colson	Parkhouse
Fly	Phillips
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis
Lane	Wood
Lock	

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Report of Standing Committee

Senator Bracewell submitted the following report:

Austin, Texas,
February 6, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Insurance, to whom was referred S. B. No. 112, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

BRACEWELL, Chairman.

Senate Bills on First Reading

The following bills were introduced, read first time and referred to the committees indicated:

By Senator Martin:

S. B. No. 204, A bill to be entitled "An Act to amend Chapter 264, page

735, of the Acts of the 54th Legislature, so as to provide a Juvenile Court for Waller and Hamilton Counties, Texas; and declaring an emergency."

To the Committee on Legislative, Congressional and Judicial Districts.

By Senator Secrest:

S. B. No. 205, A bill to be entitled "An Act providing for certain presumptions which shall arise from the amount of alcohol in the defendant's blood at the time of the alleged offense, as shown by chemical analysis of the defendant's blood, urine, breath, or bodily substance, in any criminal prosecution for a violation of any law of this State relating to driving an automobile or other motor vehicle while intoxicated or while under the influence of intoxicating liquor; and declaring an emergency."

To the Committee on Jurisprudence.

By Senators Hudson and Reagan:

S. B. No. 206, A bill to be entitled "An Act amending Chapter 218, Acts 1949, 51st Legislature, as amended by Chapter 304, Acts 1951, 52nd Legislature, providing for two year terms of Park Commissioners of eligible counties and adding a new section providing that any bonds issued under said Chapter shall be authorized by the Commissioners' Court of the County; providing a severability clause and declaring an emergency."

To the Committee on State Affairs.

Senate Concurrent Resolution 24

Senator Hudson offered the following resolution:

S. C. R. No. 24, Granting City of McAllen permission to sue the State of Texas.

Whereas, the City of McAllen, Texas is a municipal corporation organized under the provisions of Article XI, Section 5 of the Texas Constitution and Chapter 13 of Title 28 of the Revised Civil Statutes, and

Whereas, During the period February, 1952 through and including January, 1957, the City of McAllen, Texas has paid to the State of Texas gas gathering taxes on natural gas received by the City of McAllen under the terms of a contract dated February 1, 1952 between said City and Taylor Refining Company and Mayfair Minerals, Inc., both Texas corporations, said taxes being purported

to be levied by Acts 1931, 42nd Legislature, p. 111, Ch. 73, as amended, such Acts being codified as Article 7047b, Vernon's Annotated Civil Statutes of Texas, and

Whereas, The above described legislative enactment provides that the tax levied is an occupation tax and the courts of Texas have, since the passage of such Act, uniformly held that the tax levied by such enactment is an occupation tax, and

Whereas, Article VIII, Section 1 of the Constitution of Texas provides that occupation taxes shall not be imposed upon municipal corporations and such tax insofar as it is levied against the interest of the City of McAllen, Texas, constitutes an occupation tax against a municipal corporation and it is therefore asserted by the City of McAllen, Texas that such tax is unconstitutional and illegal insofar as the interest in natural gas of the City of McAllen, Texas, is concerned and the City of McAllen, Texas is desirous of determining the liability, if any, imposed upon its interest in the natural gas received by it under the terms of the above mentioned contract dated February 1, 1952, and

Whereas, There is no provision of law whereby the money heretofore paid as gas gathering taxes by the City of McAllen, Texas, and which it is claimed has been unlawfully extracted, can be returned or recovered except through direct appropriation by the Legislature, and

Whereas, The Legislature of the State of Texas has from time to time permitted firms, municipal corporations and individuals to recover taxes illegally extracted; now, therefore, be it

Resolved by the Senate of the State of Texas, with the House concurring, that the City of McAllen, Texas, a municipal corporation, be and it is hereby granted permission to sue the State of Texas in any Court of competent jurisdiction within the State of Texas, by service upon the Attorney General of the State of Texas, the State Treasurer of the State of Texas and the Comptroller of Public Accounts of the State of Texas to recover judgment against the State of Texas for all amounts of money heretofore illegally extracted from and paid by the City of McAllen, Texas, as production taxes under the provisions of Article 7047b, Vernon's An-

notated Civil Statutes of Texas; and be it further

Resolved, That nothing herein contained shall be construed as an admission of liability against the State, and the facts upon which the City of McAllen, Texas, may seek to recover must be proved as in any other civil case and either of the parties shall have the right of appeal, and be it further

Resolved, That no interest shall be paid the City of McAllen, Texas, in the event final judgment is obtained by it for recovery of the taxes paid under the provisions of Article 7047b, Vernon's Annotated Civil Statutes of Texas.

The resolution was read and was referred to the Committee on Jurisprudence.

(President in the Chair.)

Senate Concurrent Resolution 25

Senator Gonzalez offered the following resolution:

S. C. R. No. 25, Providing for committee to select outstanding artist and alternate of the State.

Whereas, It has been a custom of long standing for governments to recognize the arts and encourage their development; and

Whereas, There has always existed a close connection between the arts and the growth of civilization over the years; and

Whereas, It has long been customary for governments to recognize this relationship by elevating their outstanding artists to the same level of leaders in other fields of state; and

Whereas, The recognition of outstanding artists in this State and their elevation to places of honor will have a wholesome and beneficial effect on art in this State; now, therefore, be it

Resolved, By the Senate of the State of Texas, the House of Representatives concurring, That there shall be named a committee of five (5) to appoint and designate some outstanding and recognized artist who is a citizen of the State of Texas and who has done great work in the field of painting the beauty that is Texas' on canvas, that it may be preserved for all posterity, who shall be STATE ARTIST OF TEXAS for a period of two (2) years from such appointment and designation and shall

serve in this capacity until his successor is appointed and designated. That said committee shall consist of two (2) members of the Senate to be named by the Lieutenant Governor, two (2) members of the House of Representatives to be named by the Speaker of the House, and said committee shall meet with the Governor, who is hereby designated as the fifth member of the committee, or if the Governor does not serve, he is hereby authorized to designate the fifth member of the committee; and be it further

Resolved, That an alternate STATE ARTIST OF TEXAS, with the same qualifications of the STATE ARTIST OF TEXAS, be appointed for the same period of time, who shall serve in the event of the demise, resignation or movement of residence of the STATE ARTIST OF TEXAS from the State.

The resolution was read and was referred to the Committee on State Affairs.

Senate Resolution 85

Senator Gonzalez offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate East Central School, San Antonio, Mrs. H. O. Voshie; and

Whereas, We desire to welcome these distinguished visitors to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate.

The resolution was read and was adopted.

Senator Gonzalez by unanimous consent presented the students and teacher to the Members of the Senate.

Bill and Resolutions Signed

The President signed in the presence of the Senate after the captions had been read, the following enrolled resolutions and bill:

H. C. R. No. 10, Honoring the memory of Frank Matush of Temple, Texas.

H. C. R. No. 20, Providing Joint

Session to hear an address by W. C. "Dan" Daniel, National Commander of The American Legion, on March 21, 1957.

H. C. R. No. 24, Providing for a Joint Session to hear the Governor of Texas at 11:00 a.m. on Monday, February 4, 1957.

S. B. No. 138, A bill to be entitled "An Act to amend Subdivision (c) of Section 1 of Chapter 467 of the General and Special Laws of the Fifty-fourth Legislature, Regular Session, 1955, so as to provide that the term 'State Employee' shall be redefined to exclude members of the Legislature as to Social Security coverage under such Act; and declaring an emergency."

S. C. R. No. 20, Commending United States Air Force Reserve for "Air-lift Buckskin."

Co-Author of Senate Bill 206

Senator Hudson asked unanimous consent that Senator Reagan be shown as co-author of S. B. No. 206.

There was no objection offered.

Message From the House

Hall of the House of Representatives,
Austin, Texas,
February 6, 1957.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 140, A bill to be entitled "An Act creating a Court of Domestic Relations for Smith County, Texas; fixing its jurisdiction; conforming the jurisdiction of other Courts thereto; fixing its terms; providing the manner of selection, tenure and compensation of the Judge of said Court; providing the manner of and grounds for the removal of the Judge of said Court; providing for the selection and compensation of a special Judge; providing for the appointment of a Court Reporter and such other officers and investigators as might be necessary and providing for their compensation; providing for appeals to higher courts; providing for the procedure of said Court; providing for the services of certain county and district offices to said Court; con-

taining a saving clause; and declaring an emergency."

H. B. No. 277, A bill to be entitled "An Act leasing the Texas Hall of State Building located in the City of Dallas, situated in Fair Park, and a park owned by the City of Dallas; providing conditions of the lease; providing that the State Board of Control shall execute the lease; and declaring an emergency."

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Senate Resolution 87

Senator Bracewell offered the following resolution:

Whereas, W. Louis Lotspeich of Houston, Texas, commercial operator for Red Arrow Freight Lines, Inc., was officially proclaimed "Most Representative Hobbs Knight of the Road for 1956 at a banquet in his honor in Austin on Tuesday, February 6, 1957; and

Whereas, Mr. Lotspeich was selected to receive this honor from among one hundred fourteen (114) truck drivers so recognized for acts of courtesy on Texas highways in 1956; and

Whereas, The basis of Mr. Lotspeich's selection was his good work at the scene of a traffic accident twelve miles south of Conroe, Texas, at which time he freed a seriously injured lady (Mrs. R. K. Edwards of Galena Park, Texas) who was pinned in her car, rendered first aid assistance, summoned an ambulance and otherwise assisted in every way he could:

Now, Therefore, Be It Resolved, That the Senate of the State of Texas recognizes the outstanding performance of W. Louis Lotspeich and the awards program which has brought it to public attention, and commends Mr. Lotspeich's conduct and the conduct of other recipients of the award as examples to be followed by all drivers in Texas; and that a copy of this resolution be presented to Mr. Lotspeich.

The resolution was read and was adopted.

Senator Bracewell by unanimous consent presented Mr. Lotspeich and party to the Members of the Senate.

Senate Resolution 88

Senator Colson offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate the Senior Class of the Kennard High School of Kennard, Houston, County, Texas, namely: Misses Shirley Hill, Jenell Johnson, Lois Montgomery; and Messrs. Johnny Ainsworth, Curtis Baker, Delbert Davis, Jimmy English, Larry McClain, Wendell Rhone, and Wayne Wilson, accompanied by their sponsor, Mrs. Marie McClure, and Mr. Edgar Thames; and

Whereas, The presence of these young people is evidence of their interest in better citizenship and governmental affairs; now, therefore, be it

Resolved, That the Senate of the State of Texas officially recognize and welcome these guests and commend them for their interest; and that a copy of this Resolution, properly endorsed and bearing the official seal of the Senate, be forwarded to each of them in appreciation of their visit.

The resolution was read and was adopted.

Senator Colson by unanimous consent presented the students and sponsors to the Members of the Senate.

Senate Bill No. 18 on Second Reading

Senator Moffett moved that the regular order and Senate Rule 116 and Section 5 of Article III of the State Constitution be suspended and that S. B. No. 18 be taken up for consideration at this time.

The motion prevailed by the following vote:

Yeas—29

Aikin	Moffett
Ashley	Moore
Bracewell	Owen
Bradshaw	Parkhouse
Colson	Phillips
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis
Lane	Wood
Martin	

Absent

Fly

Lock

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 18, A bill to be entitled "An Act regulating the manufacture, sale, offering for sale, exposing for sale and distribution for sale of commercial feed as defined in this Act in this State; containing a short title; defining terms; regulating the manufacture, sale and distribution of "Customer-Formula Feed," "Special Formula Feed" and "Made To Order Feed"; providing a penalty; etc.; and declaring an emergency."

The bill was read the second time.

Senator Phillips offered the following amendment to the bill:

Amend Senate Bill No. 18 by adding at the end of Section 6 (c) (4); "provided, however, that the Director may, only when all ingredients are furnished by the mixer, miller or processor, as an alternate to the method required by the preceding language of this Sec. 6 (c) (4), promulgate procedures and prescribe forms that will permit a customer-formula feed to be invoiced and labeled by means of an identifying name, number or similar designation in order to eliminate the necessity of itemizing the name and quantity of each separate item or ingredient contained in such a customer-formula feed."

The amendment was adopted.

Senator Roberts offered the following amendment to the bill:

Amend S. B. No. 18 by striking out the words "but not limited to" in line 12, page 5, and the word "buildings" in line 13, page 5.

ROBERTS
OWEN

The amendment was adopted.

Senator Secrest offered the following amendment to the bill:

Amend Senate Bill 18, Section 7, paragraph (d), by striking the words "shall, in addition to other requirements, furnish a surety bond executed by a corporate surety company authorized to do business in the State of Texas, conditioned upon the faithful

performance of the provisions of this Section 7, payable to the State of Texas in the amount of One Thousand Dollars (\$1,000.00)" and inserting in lieu thereof the following: "must deposit with the director cash in the amount of One Thousand Dollars (\$1,000.00) or securities acceptable to and approved by the director of a value of at least One Thousand Dollars (\$1,000.00), or must post with the director a surety bond payable to the State of Texas in the amount of One Thousand Dollars (\$1,000.00), executed by a corporate surety company authorized to do business in Texas and approved by the director, conditioned upon the faithful performance of the provisions of this article; or must post with the director a bond with at least two good and sufficient and solvent personal sureties, payable to the State of Texas in the amount of One Thousand Dollars (\$1,000.00) and approved by the director, conditioned upon the faithful performance of the provisions of this article."

The amendment was adopted.

On motion of Senator Moffett and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Senate Bill No. 18 on Third Reading

Senator Moffett moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several day be suspended and that S. B. No. 18 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Lock
Ashley	Moffett
Bracewell	Moore
Bradshaw	Owen
Colson	Parkhouse
Fly	Phillips
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis
Lane	Wood

Nays—1

Martin

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—30

Aikin	Lock
Ashley	Moffett
Bracewell	Moore
Bradshaw	Owen
Colson	Parkhouse
Fly	Phillips
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Rogers
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis
Lane	Wood

Nays—1

Martin

Co-Author of Senate Bill 95

Senator Rogers asked unanimous consent to be shown as co-author of Senate Bill 95.

There was no objection offered.

Senate Resolution 89

Senator Weinert offered the following resolution:

Be it resolved by the Senate of Texas, That the Lieutenant Governor be and he is hereby authorized to appoint Senator Hubert R. Hudson as a member of the Committee on Water and Conservation.

The resolution was read and was adopted unanimously by the Senate.

Committee Substitute Senate Bill No. 48 on Second Reading

Senator Herring moved that the regular order and Senate Rule 116 and Section 5 of Article III of the State Constitution be suspended and that C. S. S. B. No. 48 be taken up for consideration at this time.

The motion prevailed by the following vote:

Yeas—29

Aikin	Martin
Ashley	Moffett
Bracewell	Moore
Bradshaw	Owen
Colson	Parkhouse
Fly	Phillips
Gonzalez	Ratliff
Hardeman	Roberts
Hazlewood	Rogers
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis
Lane	Wood
Lock	

Absent

Fuller

Reagan

The President laid before the Senate on its second reading and passage to engrossment:

C. S. S. B. No. 48, A bill to be entitled "An Act for the relief of purchasers and providing for the issuance of a patent to Lot 8, Block 169 of the City of Austin, Texas, and declaring an emergency."

The bill was read second time and was passed to engrossment.

Committee Substitute Senate Bill No. 48 on Third Reading

Senator Herring moved that the Constitutional Rule and Senate Rule 32 requiring bills to be read on three several days be suspended and that C. S. S. B. No. 48 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Martin
Ashley	Moffett
Bracewell	Moore
Bradshaw	Owen
Colson	Parkhouse
Fly	Phillips
Gonzalez	Ratliff
Hardeman	Reagan
Hazlewood	Roberts
Herring	Rogers
Hudson	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis
Lock	Wood

Absent

Fuller

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—30

Aikin	Martin
Ashley	Moffett
Bracewell	Moore
Bradshaw	Owen
Colson	Parkhouse
Fly	Phillips
Gonzalez	Ratliff
Hardeman	Reagan
Hazlewood	Roberts
Herring	Rogers
Hudson	Secrest
Kazen	Smith
Krueger	Weinert
Lane	Willis
Lock	Wood

Absent

Fuller

Senate Resolution 90

Senator Owen offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate Hulon Brown, Rocky Ford, Bill Moody, Pete Snelson; and

Whereas, We desire to welcome these distinguished visitors to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended official welcome of the Senate.

OWEN

HARDEMAN

The resolution was read and was adopted.

Appointment to Water and Conservation Committee

The President announced pursuant to provisions of S. R. No. 89, the appointment of Senator Hubert R. Hudson to the Committee on Water and Conservation.

Adjournment

On motion of Senator Hardeman the Senate at 11:45 o'clock a.m. adjourned until 10:30 o'clock a.m. tomorrow.

In Memory of

Mr. A. B. Vera

Senator Willis offered the following resolution:

(Senate Resolution 86)

Whereas, On October 16, 1956, in the death of Mr. A. B. Vera, Fort Worth lost an able and respected member of the community; and

Whereas, A. B. Vera, a native of Pennsylvania, came to Fort Worth where he entered the insurance business in which he has been active since 1909; he had reached the age of eighty-four years, and had been an outstanding resident of Fort Worth, Texas; and

Whereas, Mr. Vera was a member of the First Presbyterian Church, of the Knights of Pythias, and was in 1913 one of the charter members of the Fort Worth Rotary Club, being secretary for nine years and director for eleven years; now, therefore, be it

Resolved, By the Senate of the Fifty-fifth Legislature of Texas, That the State has lost an outstanding citizen who had contributed greatly to the welfare of Texas; and, be it further

Resolved, That the respect and admiration of this Body be expressed hereby; and that the sincere sympathy of the Senate be extended to his family and that copies of this resolution shall be mailed to his wife, Mrs. A. B. Vera; to his step-daughter, Miss Ida Nell Pangburn of Fort Worth; and to his nieces, Mrs. Smith Ballew, Mrs. John L. Gay and Mrs. Harold Reigle of Fort Worth, Mrs. E. L. Stewart of Honolulu and Dr. Harriett Vera of Baltimore; and that when the Senate adjourns today that it do so in his honor.

The resolution was read and was adopted by a rising vote of the Senate.